

to the treasurer to be by him preserved, and copies thereof shall be evidence in suits upon the bonds of the register signing the same.

See notes to sec. 119.

An. Code, sec. 119. 1904, sec. 116. 1888, sec. 101. 1844, ch. 184, sec. 5. 1874, ch. 483, sec. 102.

**123.** The orphans' court in fixing the commissions of executors and administrators shall make no allowance for the tax hereby imposed, it being hereby intended that the said tax shall be paid out of said commissions, and not by the estate of the deceased.

### **Collateral Inheritance Tax.**

An. Code, sec. 120. 1904, sec. 117. 1888, sec. 102. 1844, ch. 237, sec. 1. 1864, ch. 200. 1874, ch. 483, sec. 113. 1880, ch. 444. 1908, ch. 695. 1924, ch. 413.

**124.** All estates, real, personal and mixed, money, public and private securities for money of every kind passing from any person who may die seized and possessed thereof, being in this State, or any part of such estate or estates, money or securities, or interest therein, transferred by deed, will, grant bargain, gift or sale, made or intended to take effect in possession after the death of the grantor, bargainor, devisor or donor to any person or persons, bodies corporate, in trust or otherwise, other than to or for the use of the father, mother, husband, wife, children and lineal descendants of the grantor, bargainor or testator, donor or intestate, shall be subject to a tax of five per centum in every hundred dollars of the clear value of such estate, money or securities; and all executors and administrators shall only be discharged from liability for the amount of such tax, the payment of which they be charged with, by paying the same for the use of this State, as hereinafter directed; provided, that no estate which may be valued at a less sum than five hundred dollars shall be subject to the tax imposed by this section. Provided further, that nothing in this section shall apply to any such estate or estates, money or securities, or interest therein, transferred by deed, will, grant, bargain, gift or sale, made or intended to take effect in possession after the death of the grantor, bargainor, devisor or donor, passing to the City of Baltimore or to any county or municipality of the State.<sup>1</sup>

The purport of this section is that collateral kindred should pay a certain premium for privilege of acquiring decedent's property which is subject to laws of Maryland; tax is, therefore, not upon property itself. The words "being in this state" refer to property and not to person. When property is "in this state" within meaning of this section. Broad application of this section. *State v. Dalrymple*, 70 Md. 298; *Fisher v. State*, 106 Md. 119; *Helser v. State*, 128 Md. 232; *Washington Hospital v. Mealey*, 121 Md. 280; *Safe Deposit Co. v. State*, 143 Md. 646.

The object and purpose of the appraisement of real estate is to fix and compute collateral inheritance tax; this tax is not a tax on property but on privilege of succeeding to it by inheritance or under a will. Where an undivided one-seventh interest in real estate is subject to the tax it is proper to appraise the real estate as a whole and then divide the result by seven. *Wingert v. State*, 129 Md. 30.

This section is constitutional and valid. *Tyson v. State*, 28 Md. 578; *State v. Dalrymple*, 70 Md. 298; *Fisher v. State*, 106 Md. 119; *Washington Hospital v. Mealey*, 121 Md. 280.

<sup>1</sup>Sec. 2 of ch. 413 of acts of 1924 provides that amendment made to this section by said chapter shall be construed retrospectively as well as prospectively.